

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

**NEIL GAIMAN, and
MARVELS AND MIRACLES, LLC,**

Plaintiffs,

v.

Case No.: 02-cv-00048-bbc

**TODD MCFARLANE, TODD
MCFARLANE PRODUCTIONS, INC.,
TMP INTERNATIONAL, INC.,
MCFARLANE WORLDWIDE, INC., and
IMAGE COMICS, INC.,**

Defendants.

**PLAINTIFF'S MOTION TO EXTEND DEADLINE
FOR COMPLETING ACCOUNTING OF PROFITS**

Plaintiff Neil Gaiman ("Gaiman") moves the Court to extend the current deadline for completing the ongoing accounting of profits in this action. Specifically, Gaiman requests that the deadline be extended to require the Parties to submit all necessary financial information and other evidence to the Accountant no later than 30 days from the date on which the Court issues its decision regarding Gaiman's pending motion regarding derivative characters, which is currently set for a hearing on June 14. The grounds for this motion are set forth below.

1. On March 12, 2010, the Court issued an order giving the parties "until July 17, 2010 in which to complete their accounting of the damages due plaintiff Neil Gaiman."

2. Since that time, the Parties have been working diligently to meet the Court's deadline. As described in Gaiman's monthly status reports to the Court, the Parties have been conferring regularly about disputed accounting issues and have been gathering various information relevant to the Accountant's work. The Parties are attempting to reach stipulations

regarding various issues in an effort to streamline the process as much as possible. Earlier this month, the Parties submitted memoranda to the Accountant stating their positions on various issues in the case. Defendants are in the process of gathering and producing various financial documents necessary for any potential stipulations regarding amounts in dispute and have indicated that they expect to produce that information to Gaiman by the end of next week. The Parties believe they can produce all necessary information, other than that relating to derivative characters, to the Accountant by the Court's current July 17 deadline.

3. Gaiman's pending motion regarding derivative characters may affect when the Accounting can be completed. Defendants have refused to produce information relevant to the disputed characters until the Court rules on Gaiman's motion. Gaiman believes that if the Court rules in his favor on that motion, the Parties should be able to provide all relevant documents and other information to the Accountant relating to the derivative characters within 30 days of the ruling.

4. However, it is presently unclear how long it will take the Accountant to complete the accounting after he receives all of the information relevant to the derivative characters. The Accountant previously indicated that he believed he could complete all aspects of the Accounting other than the derivative character portion by mid-September. Gaiman is attempting to schedule a call with the Accountant to get an updated estimate of when he believes he can complete his work. Gaiman will inform the Court of the Accountant's estimated deadline at the June 14 hearing, or earlier if the Court wishes.

5. In light of all of the above, Gaiman respectfully requests that the Court amend the current deadline for completing the accounting and order that the Parties provide the Accountant with all information they believe is necessary for the accounting no later than 30 days after the Court issues its decision on Gaiman's motion regarding derivative characters.

Gaiman further requests that the Court set a deadline for the Accountant to complete the accounting after it has received Gaiman's updated information from the Accountant at the June 14 hearing.

Dated this 27th day of May, 2010.

s/Jeffrey A. Simmons

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